

2006 RENTAL POOL PROCEDURES  
APPROVED BY THE IDAHO WATER RESOURCE BOARD 7-14-06

WATER DISTRICT 1  
RENTAL POOL PROCEDURES

**RULE 1. AUTHORITY AND STATEMENT OF PURPOSE.**

- 1.1. These procedures have been adopted by the Committee of Nine of Water District 1 pursuant to Section 42-1765, Idaho Code, to assure the orderly operation of the Water District 1 Rental Pool. Under no circumstances shall these procedures be interpreted or construed to limit the authority of the director of the Department of Water Resources, the Water Resource Board, or the Snake River Watermaster in discharging their duties as set forth in the statutes of the state of Idaho and rules and the regulations promulgated thereto.
- 1.2. The purpose of these procedures is to provide:
- A. The rules by which the Committee of Nine, acting under the authority of the appointment of the Committee of Nine by the Water Resource Board, as a local operating committee, will make stored water available through the Rental Pool.
  - B. A process, which complies with the Idaho Code and the Water Bank Rules of the Idaho Water Resource Board, by which stored water supplies will be made available by spaceholders for rental through the Water District 1 Rental Pool.
  - C. Incentives to storage space holders to participate in three after-the-fact rental processes established by these procedures: (1) The allocation of storage defined in these procedures as "late season fill" as the water supply made available for certain storage rentals made previously by the Committee during the irrigation season; (2) making spaceholder's space and water accruing thereto available to the rental pool for other users and uses through private leases and (3) making spaceholder's space and water accruing thereto available to the rental pool for other users and uses through specific assignments of water to the rental pool.
  - D. Expanded opportunities for all spaceholders to participate in and benefit from the proceeds of the Rental Pool.

- E. Priorities for selecting between competing rental applications during times of water scarcity.
  - F. Funding for the Committee of Nine on behalf of spaceholders to defray costs in the operation of its rental pool, for making improvements in distribution facilities and improving efficiency in the distribution of water within Water District 1, for defending attacks from third parties on spaceholder's water rights, and in defending against challenges that might reduce state and private control and use of water resources in Idaho.
  - G. Controls, priorities and safeguards to insure that existing water rights are not injured and that an adequate supply of stored water may be obtained on a voluntary basis from available supplies for the stated needs set forth in these procedures.
- 1.3. All spaceholders will have an opportunity to participate in the monetary benefits of the Rental Pool. These procedures are designed to assure that spaceholders will have first priority in acquiring storage from the rental pool while making provisions which will provide the BOR an opportunity to provide water for flow augmentation.
- 1.4. All spaceholders who agree to participate in the Rental Pool will be considered to be suppliers to the Water District 1 Rental Pool of the Committee of Nine for the rental of water (to the extent the spaceholder has storage) for flow augmentation; will be a supplier of late-season fill water available to the Rental Pool; and will be able to be full participants in all benefits of the Rental Pool described in these Procedures. Spaceholders who choose to participate in the Rental Pool are deemed to be a voluntary participant of the Rental Pool for each and every year thereafter unless a spaceholder advises the Watermaster prior to February 1 of any given year that he wishes to "opt out". Spaceholders who opt out are not participants (either as suppliers or renters) unless they subsequently decide to participate by opting into the rental pool. Any non-participating spaceholder may "opt in" as a Rental Pool participant if he does so prior to February 1 of any year. Anyone opting in will not be eligible to receive a monetary payment for rentals or impacts that took place the previous year. Anyone who opts in will be eligible for all of the participation benefits of the Rental Pool beginning the year he opts in. If after February 1 of any year, less than seventy-five percent (75%) of the contracted storage space is committed to the rental pool by participating spaceholders, the Committee of Nine will revise the rental pool procedures as determined to be necessary prior to April 1.

- 1.5. All participating spaceholders will receive payment for water rented from the rental pool from the late season fill using an after the fact process during the current irrigation year based upon the amount of space they own in a water storage reservoir or reservoirs and distributed within Water District 1. These procedures anticipate that those spaceholders who choose to participate in the Rental Pool will generally be paid for water rented during the previous irrigation season according to the following payment distribution formula:

$$P = \left( \frac{R \times SP}{TSP} + \frac{R \times ST}{TST} \right)$$

Where: P = Payment to Participating Spaceholder

R = 70% of Net Proceeds from rental of late season fill

SP = Space of Participating Spaceholder

ST = Storage water of Participating Spaceholder

TSP = Total Space in System

TST = Total Storage in System

Because the Watermaster must determine ST (each spaceholder's current allocation), payments cannot be made to participating spaceholders until the Watermaster has computed final water distribution data for the year. Final storage allocation data will not be available for approximately nine (9) months after the end of the current irrigation year, or up to 18 months after the rental water was used. Therefore, payments made to impacted spaceholders will initially be based on preliminary data. Adjustments to impacted payments will be made after the final accounting has been completed at the end of the irrigation season.

- 1.6. If the reservoirs do not fill, each participating spaceholder will be paid for water leased through the rental pool the previous year based upon the extent to which the spaceholder's storage is found to have been impacted in the current year from the past year's rental activities. Those participating spaceholders found to have been impacted shall be paid from the remaining 30% of the proceeds from the net rentals, as described in rule 3.6 & 7.2 below.
- 1.7. In any year when the water rights for the surface water storage facilities distributed by Water District 1 do not fill, the Watermaster will determine, using a procedure developed by Water District 01, unless disapproved by the Director: (1) what the fill would have been had the previous year's rentals not taken place, (2) the storage space from which rental water was actually supplied for the previous year's rentals and (3) the amount of water each spaceholder's current allocation was reduced by the previous year's rental activities. Impacted spaceholders (who's space actually ended up supplying the water) will be paid, at the rate established in rule 3.6 below.

- 1.8. In addition to the late season fill using an after-the-fact method of leasing described herein, a spaceholder may assign additional water for agricultural rentals or recharge. If refill of the storage system does not occur the following year and the additional rentals caused impacts as determined by the procedures developed by Water District 01, unless disapproved by the Director, then the assigning spaceholder's subsequent year's storage allocation shall be reduced by an amount equal to such impacts and that portion of his accrual will be reallocated to mitigate the impacts. One hundred percent (100%) of the rental price shall be paid to the assignor, less all established administrative fees and Board surcharges.
- 1.9. Spaceholders may also enter into private leases, either within a system or between systems, for agricultural purposes above Milner. The lease price may be different from the current rental price. One hundred percent (100%) of the lease price shall be paid to the Lessors less all established administration fees and Board surcharges. If refill of the storage system does not occur the following year and private leases caused impacts determined by the procedures developed by Water District 01, unless disapproved by the Director, then the lessor's subsequent year's storage allocation shall be reduced by an amount equal to such impacts.

## **RULE 2. DEFINITIONS.**

- 2.1. **ACRE-FOOT** - a volume of water sufficient to cover one acre of land one foot deep and is equal to 43,560 cubic feet.
- 2.2. **ALLOCATION** - the amount of stored water of a spaceholder, including carryover, that has accrued to a spaceholder's storage space on the date of allocation of stored water and will be available for the spaceholder's use during the year of allocation.
- 2.3. **ANNUAL** - refers to the Water District 1 accounting year. The period starting November 1 and ending October 31 of the succeeding calendar year.
- 2.4. **APPLICANT** - any person who seeks to rent storage water from the Rental Pool by submitting a written request to rent storage water, accompanied by the required cash deposit.
- 2.5. **ASSIGNOR** - a spaceholder who has assigned storage to the Rental Pool pursuant to these procedures.
- 2.6. **BOARD** - the Idaho Water Resource Board.

- 2.7. **BUREAU** - the Bureau of Reclamation, Department of the Interior, United States of America, or USBR.
- 2.8. **COMMITTEE** - the Committee of Nine, the advisory committee selected by Water District 1 at their annual meeting, and appointed as the local committee by the Board pursuant to I.C. §42-1765.
- 2.9. **DEPARTMENT** - the Idaho Department of Water Resources or IDWR.
- 2.10. **DIRECTOR** - the director of the IDWR.
- 2.11. **DISTRICT** - Snake River Water District 1 of the State of Idaho.
- 2.12. **IMPACT FUND** - The fund created by these procedures from a portion of certain rental receipts described in rule 1.6 above, held by the district for the benefit of the Committee for payment to spaceholders who have been impacted by past rentals of water.
- 2.13. **LATE SEASON FILL** - Additional storage that accrues after the date of allocation of storage in the year water is to be rented, and before the date of allocation of storage in the following year.
- 2.14. **LEASE** - a written agreement through which the watermaster is authorized to deliver storage rented from the Rental Pool to a point of diversion located in Water District 1.
- 2.15. **LESSEE** - person who leases from Committee or spaceholder.
- 2.16. **LESSOR** - Committee or Spaceholder who leases stored water to a Lessee.
- 2.17. **MILNER** - Milner Dam on the Snake River.
- 2.18. **NET PROCEEDS** - Rental Price per acre foot times the number of acre feet rented from late season fill.
- 2.19. **PERSON** - any individual, corporation, partnership, irrigation district, canal company, political subdivision or governmental agency.
- 2.20. **RENT or RENTAL** - act of leasing water from the Rental Pool.
- 2.21. **RENTAL POOL** - either the rental process established through actions of the Committee of Nine, the Board and these procedures or, the water supply that has been made available for lease or rental to other water users through a

signed rental agreement that has been approved by the Watermaster pursuant to these procedures.

- 2.22. **RENTAL POOL COMMITTEE** - A sub-committee composed of the Water District 1 Watermaster, a designated representative from the Bureau of Reclamation and three or more members or alternates of the Committee of Nine who have been appointed by the Chairman of the Committee of Nine to serve on the Rental Pool Committee.
- 2.23. **RENTAL PRICE** - The price for each acre-foot of water rented as established by the Committee and approved by the Board for the current year, excluding the District's \$.80 administrative fees and the Board's 10% surcharge.
- 2.24. **RENTER** - lessee of stored water.
- 2.25. **RESERVOIR SYSTEM CAPACITY** - Useable reservoir system capacity for the reservoirs delivering water to the Water District 1 area, which has been determined to currently be 4,172,708 acre-feet.
- 2.26. **SPACE** - all or any portion of the active impoundment volume of a reservoir measured in acre-feet.
- 2.27. **SPACEHOLDER** - the person who holds the contractual right to the water stored in the space of a storage facility allocated to that person and distributed by the Watermaster of Water District 1.
- 2.28. **STORAGE** - the portion of the available space that contains stored water.
- 2.29. **WATERMASTER** - the watermaster of Water District 1.
- 2.30. **WATER SUPPLY FORECAST** - A forecasted unregulated runoff for the April 1 to September 30<sup>th</sup> time period at the Heise USGS gaging station.

### **RULE 3. GENERAL PROCEDURES.**

- 3.1. It is the policy of the water users of Water District 1 and the Committee to operate the rental pool to achieve the maximum beneficial use of available surplus stored water.
- 3.2. The primary purpose in the operation of the rental pool will be to provide irrigation water to Spaceholders within Water District 1. These procedures are designed to assure that stored water made available through these procedures will not impact the allocation of any spaceholder without his consent or without his being made whole as far as possible. These procedures

were developed to assure that an impacted spaceholder will be compensated to the extent the actual impact can be determined by the procedures developed by Water District 01, unless disapproved by the Director. It is the intent of the Committee that these procedures provide an adequate mechanisms to assure that additional storage is made available to renters while assuring that the storage water rights and water allocations of others are not adversely impacted by these procedures.

- 3.3. The operation of the rental pool shall in no way recognize any obligation to maintain flows below Milner Dam or to assure the minimum stream flows established at the USGS gaging station on the Snake River near Murphy.
- 3.4. The operation of the rental pool shall be consistent with the statutes creating the Water Supply Bank, the rules and regulations of the Board, and the relevant provisions of the spaceholder's contracts with the United States.
- 3.5. Storage water available to the rental pool will be from those spaceholders who choose to participate and have submitted written notice of participation to the Watermaster's office in Idaho Falls. Unless specified otherwise an agreement to participate will be assumed to be effective until rescinded by the spaceholder. Any monies disbursed pursuant to these procedures will be limited to those who were participating spaceholders when the rental occurred.
- 3.6. Payments to participating spaceholders whose allocation was found to have been impacted in the current year by the rental of storage the previous year, will be made on or before July 15 of the current year. Payments shall be made from the impact fund created by these procedures. The amount of the payment shall be the current rental price for water used for agricultural purposes that would apply to any renter seeking water in the current year up to the number of acre feet impacted. However, impact payments in any one year shall not be greater than the participating spaceholder's pro-rata share of up to fifty percent (50%) of the impact fund, as determined by the formula set forth in Rule 7.2 below.
- 3.7. Should a non-participating spaceholder be impacted by the previous year's water rentals, sufficient water will be provided by increasing his allocation of storage in an amount equal to the impact through after-the-fact (end-of-the-year) accounting by adding the impacts of non-participating spaceholders proportionately to the impacts of participating spaceholders to eliminate the computed impact.
- 3.8. The Rental Pool Committee shall meet prior to July 1 of each year, evaluate the water supply situation and recommend to the Committee the amount of storage that will be made available through the rental pool for that year in

excess of the amount established by Table 1 plus 55,000 acre-feet. The Committee of Nine will consider the Rental Pool Committee's recommendation in determining the amount of water that will be available to renters located above Milner. The amount of water for flow Augmentation shall be the amount of storage determined through the use of Figure 1 of Rule 3.10, unless it is determined by the Committee of Nine on or before July 1 of any year that extraordinary precipitation has occurred since the April 1 forecast which was not anticipated and which would substantially increase the storage in Water District 1 and would justify a determination by the Committee of Nine that a specific amount of storage will be available through the rental pool for flow augmentation for that year, notwithstanding Figure 1 of Rule 3.10. The amount available for uses above Milner shall not be more than 55,000 acre-feet unless the rental requests made by those spaceholders impacted from the previous year's rentals exceed 50,000 acre-feet, such requests have been approved and no water has been assigned to the Rental Pool to meet such additional requests. In this case the minimum amount of water that will be available through the Rental Pool will be which ever is greater, the 50,000 acre-feet reserved for irrigation above Milner, or the amount of storage necessary to meet the demand of those shown to have been impacted by the previous year's rentals. Should impacted spaceholders request water after the 50,000 acre feet of storage reserved for irrigation has been leased, the Committee of Nine will meet and determine the amount of additional water that will be necessary to meet the requests of impacted spaceholders. Should additional water be deemed to be necessary, any participating spaceholder may elect to not participate in providing such additional water.

- 3.9 Two-party stored water leases within Water District 1, shall be transacted through the Water District 1 Rental Pool and shall be approved as to form by the Watermaster. Leases of storage by a spaceholder entity shall not count against the storage rental volume set by these procedures but shall be used in computing impacts the following year. Two-party leases shall not apply to deliveries for power generation or flow augmentation. Impacts will be provided with water as provided by Rule 1.9.

- 3.10 SEE TABLE 1 ATTACHED

#### RULE 4. MANAGEMENT.

- 4.1 The Rental Pool shall be operated pursuant to Idaho Code, Section 42-1761 through 42-1766, in accordance with these procedures.
- 4.2. A sub-committee of the Committee of Nine, known as the Rental Pool Committee, shall have the following general responsibilities:



- A. To recommend needed changes in the general procedures regarding annual storage rentals.
- B. To review these procedures and make recommendations to the Committee for necessary changes.
- C. To advise the Committee of Nine on storage rental activities.
- D. To develop recommendations for the annual Rental Pool supplies and rental rates.
- E. To review monthly reports from the Watermaster as to applications, approvals and other similar rental pool items.
- F. To assist the Watermaster in resolving disputes that may arise from the diversion of storage in excess of a storage lease or other storage entitlement.

4.3. The Watermaster shall manage the rental pool. The determination of impacts and those entitled to payment shall be based solely upon these procedures. The manager's authority shall include accepting water into the rental pool, executing rental agreements on behalf of the Committee of Nine, disbursing and investing funds generated through the rental of stored water with the advice and consent of the Rental Pool Committee, and distribution of water supplies from the rental pool. All funds invested shall be considered public funds for investment purposes and subject to the Public Depository Law, Chapter 1, Title 57, Idaho Code. The Committee of Nine, by resolution may assign specific responsibilities not covered in these procedures to the Rental Pool Committee.

#### **RULE 5. PRIORITIES FOR RENTING WATER.**

5.1 These procedures are intended to assure that spaceholders have the first priority in acquiring supplemental storage supplies from the Rental Pool. Priorities for renting water, other than for flow augmentation described in Rule 3.7 above, shall be as follows: (1) First priority: Spaceholders, who are rental pool participants and whose storage was found to have been impacted by rentals<sup>1</sup> from the previous year shall have the highest priority in acquiring rental water, up to the annual impact to that spaceholder. Existing long term leases with the Committee shall be supplied first from any balance of the 5,000

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<sup>1</sup> Impacts other than from additional supply for agricultural/recharge rentals and private leases.

acre feet reserved for small users, then from any assigned water and then finally from the 50,000 acre feet described in rule 3.8 above. (2) Second priority: Spaceholders, for agricultural purposes up to the amount of their unfilled storage space. (3) Third priority: Rental by non-spaceholders for agricultural purposes above Milner or other uses above Milner. (4) Fourth priority: Rental for uses below Milner.

However, the priority does not guarantee that irrigators will always receive stored water ahead of others seeking water from the rental pool. During times when storage supplies appear to be relatively abundant it is anticipated that water will be supplied in the order in which it is requested. Therefore, those desiring to rent water and preserve his priority in a limited supply must make application within fifteen (15) days following final storage allocation of the system during the year in which he desires to rent water.

Rental supplies for augmentation will be determined through the process provided in Figure 1 or the exception provided by Rule 3.8. Rental Pool supplies for uses above Milner Dam may be limited to 50,000 acre-feet.

- 5.2 Because of the number of small users and the attendant regulation costs, those seeking to rent less than 100 acre-feet of storage per point of diversion, unless additional rental of storage water at that point of diversion under this Rule is approved by the Committee, will be approved in the same order in which their rental applications are received by the Watermaster so long as the total amount of these requests do not exceed 5,000 acre-feet of storage. Rental supplies for the 5,000 acre-feet will also be determined through the late season fill and after the fact accounting process described herein.

## **RULE 6. LEASE APPLICATIONS, PAYMENTS AND WATER COSTS.**

- 6.1. The price for the storage rented from the rental pool:

A. If the storage system fills, the Rental Price, excluding the Rental Price for flow augmentation, shall be \$5.00 per acre foot plus the District's administrative fee (\$.80) and the Board surcharge (10%). If the storage system does not fill but water is provided for flow augmentation, the Rental Price, excluding the Rental Price for flow augmentation, shall be \$12.00 per acre foot plus the District's administrative fee (\$.80) and the Board surcharge (10%). If the storage system does not fill and no flow augmentation water is provided pursuant to Rule 3.8 and Rule 3.10 above and Rule 6.1B, the Rental Price shall be \$18.00 per acre foot plus the District's administrative fee (\$.80) and the Board surcharge (10%).

- B. The Rental Price for water provided pursuant to Rule 3.10 and any other water for below Milner shall be \$12.00 per acre foot plus the District's administrative fee (\$.80) and the Board surcharge (10%), or as further approved by the Committee.
- 6.2 All lease monies held by the District for and on behalf of the Committee will be held in a separate interest-bearing account. Accrued interest will be first used to maintain the fund that is used by the Committee to pay impacted Spaceholders. Excess funds generated will be available to the Committee for authorized uses including funds generated by the Impact Fund set up pursuant to Rule 7.2 below.
- 6.3. Applications to lease storage shall be initiated upon forms provided by the Watermaster and shall include the following information:
  - A. The legal description of the point of diversion and the place of use.
  - B. The amount of water being leased.
  - C. The common name of the point of diversion. (e.g. Milner Dam, Harrison Canal, Covington pump etc.)
  - D. The beneficial use to be achieved through the delivery of water from the rented space. (e.g. irrigation, power production, recreation)
- 6.4. Applications must be received with the appropriate rental fee determined to be due in Rule 6.1. No applications will be accepted before April 5 of the year in which the rented water will be used.

#### **RULE 7 SUPPLIER PAYMENTS**

- 7.1 All monies submitted by applicants as provided in Rule 6 shall be deposited in an interest-bearing Rental Pool account established by the Committee for the potential rental of water. Monies in this account used to rent water shall represent Rental Pool funds that can be paid out to participating spaceholders, District administrative fees and Board surcharges at the end of the irrigation year. Money in this account will be disbursed as set forth below:
  - A. 70% of the Net Proceeds shall be paid pursuant to the formula set forth in Rule 1.5 above.
  - B. 30% of the Net Proceeds shall be paid to the Impact Fund as set forth in Rule 7.2 below.

- C. 10% of the Rental Price of rented water shall be paid to the Board.
- D. \$.80 per acre foot of rented water shall be paid to the District.
- E. All accrued interest shall be paid to the Impact Fund.
- F. Balances of the account that are not used to rent water shall be refunded to applicants.

7.2 An Impact Fund shall be created pursuant to these procedures by the District on behalf of the Committee to hold 30% of the Net Proceeds for the benefit of impacted participating spaceholders. Proceeds from the Impact Fund shall be paid to participating spaceholders who, by these procedures, have been determined to have provided water for the previous years rentals, pursuant to the provisions set forth in Rule 3.6 above using the following formula:

$Sp = (Isp * RP) \text{ or } \frac{1}{2} IF * (Isp / Ispt) \text{ (whichever sum is less)}$

Where:

Sp = Impacted Spaceholder payment per Acre Foot

Isp = Spaceholder's impacted space in acre feet

RP = Rental Price

IF = Impact Fund

Ispt = Total of all Spaceholder's impacted space in acre feet

November 1		Stipulated Augmentation Rental Dist 01						
Carryover		April 1 Heise Forecast						
1000s af		< 2,450	< 2,920	< 3,450	< 4,208	< 5,042	< 5,670	> 5,670
0	0	0	0	0	0	150000	185000	185000
100	0	0	0	0	0	150000	185000	185000
200	0	0	0	0	0	150000	185000	185000
300	0	0	0	0	0	150000	185000	185000
400	0	0	0	0	0	150000	185000	185000
500	0	0	0	0	0	150000	185000	185000
600	0	0	0	0	60000	150000	185000	185000
700	0	0	0	0	60000	150000	185000	185000
800	0	0	0	0	60000	150000	185000	185000
900	0	0	0	60000	60000	150000	185000	185000
1,000	0	0	0	60000	60000	150000	185000	185000
1,100	0	0	0	60000	60000	150000	185000	185000
1,200	0	0	0	60000	60000	150000	185000	185000
1,300	0	0	0	60000	60000	150000	185000	185000
1,400	0	0	0	60000	60000	150000	185000	185000
1,500	0	0	0	100000	150000	185000	185000	185000
1,600	0	0	0	100000	150000	185000	185000	185000
1,700	0	0	0	100000	150000	185000	185000	185000
1,800	0	0	0	100000	150000	185000	185000	185000
1,900	0	0	0	100000	150000	185000	185000	185000
2,000	0	0	0	100000	150000	185000	185000	185000
2,100	0	0	0	100000	150000	205000	205000	205000
2,200	0	0	0	100000	150000	205000	205000	205000
2,300	0	0	0	100000	150000	205000	205000	205000
2,400	0	0	0	100000	150000	205000	205000	205000
2,500	0	0	0	100000	150000	205000	205000	205000
2,600	0	0	0	185000	185000	205000	205000	205000
2,700	0	0	0	185000	185000	205000	205000	205000
2,800	0	0	0	185000	185000	205000	205000	205000
2,900	0	0	0	185000	185000	205000	205000	205000
3,000	60000	60000	0	185000	185000	205000	205000	205000
3,100	60000	60000	0	185000	185000	205000	205000	205000
3,200	100000	100000	0	185000	185000	205000	205000	205000
3,300	100000	100000	0	185000	185000	205000	205000	205000
3,400	100000	100000	0	185000	185000	205000	205000	205000
3,500	100000	100000	0	185000	185000	205000	205000	205000
3,600	100000	100000	0	185000	185000	205000	205000	205000